

***In the Senate of the United States,***

*October 8 (legislative day, October 2), 1998.*

*Resolved*, That the Senate agree to the amendments of the House of Representatives to the bill (S. 417) entitled “An Act to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002.” with the following

**SENATE AMENDMENT TO HOUSE AMENDMENTS:**

1       Page 13, after the matter following line 19, of the  
2 House engrossed amendments, insert:

3 ***SEC. 9. PURCHASES FROM STRATEGIC PETROLEUM RE-***  
4 ***SERVE BY ENTITIES IN INSULAR AREAS OF***  
5 ***UNITED STATES AND FREELY ASSOCIATED***  
6 ***STATES.***

7       *(a) Section 161 of the Energy Policy and Conservation*  
8 *Act (42 U.S.C. 6241) is amended by adding at the end the*  
9 *following:*

1       “(j) *PURCHASES FROM STRATEGIC PETROLEUM RE-*  
 2       *SERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES*  
 3       *AND FREELY ASSOCIATED STATES.*—

4               “(1) *DEFINITIONS.*—*In this subsection:*

5                       “(A) *BINDING OFFER.*—*The term ‘binding*  
 6                       *offer’ means a bid submitted by the State of Ha-*  
 7                       *waii for an assured award of a specific quantity*  
 8                       *of petroleum product, with a price to be cal-*  
 9                       *culated pursuant to paragraph (2) of this sub-*  
 10                      *section, that obligates the offeror to take title to*  
 11                      *the petroleum product without further negotia-*  
 12                      *tion or recourse to withdraw the offer.*

13                     “(B) *CATEGORY OF PETROLEUM PROD-*  
 14                     *UCT.*—*The term ‘category of petroleum product’*  
 15                     *means a master line item within a notice of sale.*

16                     “(C) *ELIGIBLE ENTITY.*—*The term ‘eligible*  
 17                     *entity’ means an entity that owns or controls a*  
 18                     *refinery that is located within the State of Ha-*  
 19                     *waii.*

20                     “(D) *FULL TANKER LOAD.*—*The term ‘full*  
 21                     *tanker load’ means a tanker of approximately*  
 22                     *700,000 barrels of capacity, or such lesser tanker*  
 23                     *capacity as may be designated by the State of*  
 24                     *Hawaii.*

1           “(E) *INSULAR AREA*.—The term ‘insular  
2           *area*’ means the Commonwealth of Puerto Rico,  
3           the Commonwealth of the Northern Mariana Is-  
4           lands, the United States Virgin Islands, Guam,  
5           American Samoa, the Freely Associated States of  
6           the Republic of the Marshall Islands, the Fed-  
7           erated States of Micronesia, and the Republic of  
8           Palau.

9           “(F) *OFFERING*.—The term ‘offering’ means  
10          a solicitation for bids for a quantity or quan-  
11          tities of petroleum product from the Strategic  
12          Petroleum Reserve as specified in the notice of  
13          sale.

14          “(G) *NOTICE OF SALE*.—The term ‘notice of  
15          sale’ means the document that announces—

16               “(i) the sale of Strategic Petroleum Re-  
17               serve products;

18               “(ii) the quantity, characteristics, and  
19               location of the petroleum product being sold;

20               “(iii) the delivery period for the sale;  
21               and

22               “(iv) the procedures for submitting of-  
23               fers.

1           “(2) *IN GENERAL.*—*In the case of an offering of*  
2           *a quantity of petroleum product during a drawdown*  
3           *of the Strategic Petroleum Reserve—*

4           “(A) *the State of Hawaii, in addition to*  
5           *having the opportunity to submit a competitive*  
6           *bid, may—*

7           “(i) *submit a binding offer, and shall*  
8           *on submission of the offer, be entitled to*  
9           *purchase a category of a petroleum product*  
10           *specified in a notice of sale at a price equal*  
11           *to the volumetrically weighted average of the*  
12           *successful bids made for the remaining*  
13           *quantity of the petroleum product within*  
14           *the category that is the subject of the offer-*  
15           *ing; and*

16           “(ii) *submit 1 or more alternative offer-*  
17           *fers, for other categories of the petroleum*  
18           *product, that will be binding if no price*  
19           *competitive contract is awarded for the cat-*  
20           *egory of petroleum product on which a*  
21           *binding offer is submitted under clause (i);*  
22           *and*

23           “(B) *at the request of the Governor of the*  
24           *State of Hawaii, a petroleum product purchased*  
25           *by the State of Hawaii at a competitive sale or*

1       *through a binding offer shall have first pref-*  
 2       *erence in scheduling for lifting.*

3       “(3) *Limitation on quantity.*—

4               “(A) *IN GENERAL.*—*In administering this*  
 5       *subsection, in the case of each offering, the Sec-*  
 6       *retary may impose the limitation described in*  
 7       *subparagraph (B) or (C) that results in the pur-*  
 8       *chase of the lesser quantity of petroleum product.*

9               “(B) *PORTION OF QUANTITY OF PREVIOUS*  
 10       *IMPORTS.*—*The Secretary may limit the quan-*  
 11       *tity of a petroleum product that the State of Ha-*  
 12       *waii may purchase through a binding offer at*  
 13       *any offering to 1/12 of the total quantity of im-*  
 14       *ports of the petroleum product brought into the*  
 15       *State during the previous year (or other period*  
 16       *determined by the Secretary to be representa-*  
 17       *tive).*

18               “(C) *PERCENTAGE OF OFFERING.*—*The Sec-*  
 19       *retary may limit the quantity that may be pur-*  
 20       *chased through binding offers at any offering to*  
 21       *3 percent of the offering.*

22       “(4) *ADJUSTMENTS.*—

23               “(A) *IN GENERAL.*—*Notwithstanding any*  
 24       *limitation imposed under paragraph (3), in ad-*  
 25       *ministering this subsection, in the case of each*

1        *offering, the Secretary shall, at the request of the*  
 2        *Governor of the State of Hawaii, or an eligible*  
 3        *entity certified under paragraph (7), adjust the*  
 4        *quantity to be sold to the State of Hawaii in ac-*  
 5        *cordance with this paragraph.*

6                *“(B) UPWARD ADJUSTMENT.—The Sec-*  
 7        *retary shall adjust upward to the next whole*  
 8        *number increment of a full tanker load if the*  
 9        *quantity to be sold is—*

10                *“(i) less than 1 full tanker load; or*

11                *“(ii) greater than or equal to 50 per-*  
 12        *cent of a full tanker load more than a whole*  
 13        *number increment of a full tanker load.*

14                *“(C) DOWNWARD ADJUSTMENT.—The Sec-*  
 15        *retary shall adjust downward to the next whole*  
 16        *number increment of a full tanker load if the*  
 17        *quantity to be sold is less than 50 percent of a*  
 18        *full tanker load more than a whole number in-*  
 19        *crement of a full tanker load.*

20                *“(5) DELIVERY TO OTHER LOCATIONS.—The*  
 21        *State of Hawaii may enter into an exchange or a*  
 22        *processing agreement that requires delivery to other*  
 23        *locations, if a petroleum product of similar value or*  
 24        *quantity is delivered to the State of Hawaii.*

1           “(6) *STANDARD SALES PROVISIONS.*—*Except as*  
 2           *otherwise provided in this Act, the Secretary may re-*  
 3           *quire the State of Hawaii to comply with the stand-*  
 4           *ard sales provisions applicable to purchasers of petro-*  
 5           *leum product at competitive sales.*

6           “(7) *ELIGIBLE ENTITIES.*—

7                   “(A) *IN GENERAL.*—*Subject to subpara-*  
 8                   *graphs (B) and (C) and notwithstanding any*  
 9                   *other provision of this paragraph, if the Gov-*  
 10                   *ernor of the State of Hawaii certifies to the Sec-*  
 11                   *retary that the State has entered into an agree-*  
 12                   *ment with an eligible entity to carry out this*  
 13                   *Act, the eligible entity may act on behalf of the*  
 14                   *State of Hawaii to carry out this subsection.*

15                   “(B) *LIMITATION.*—*The Governor of the*  
 16                   *State of Hawaii shall not certify more than 1 el-*  
 17                   *igible entity under this paragraph for each no-*  
 18                   *tice of sale.*

19                   “(C) *BARRED COMPANY.*—*If the Secretary*  
 20                   *has notified the Governor of the State of Hawaii*  
 21                   *that a company has been barred from bidding*  
 22                   *(either prior to, or at the time that a notice of*  
 23                   *sale is issued), the Governor shall not certify the*  
 24                   *company under this paragraph.*

1           “(8) *SUPPLIES OF PETROLEUM PRODUCTS.*—At  
 2       *the request of the Governor of an insular area, the*  
 3       *Secretary shall, for a period not to exceed 180 days*  
 4       *following a drawdown of the Strategic Petroleum Re-*  
 5       *serve, assist the insular area or the President of a*  
 6       *Freely Associated State in its efforts to maintain ade-*  
 7       *quate supplies of petroleum products from traditional*  
 8       *and nontraditional suppliers.”.*

9       *(b) REGULATIONS.*—

10           *(1) IN GENERAL.*—*The Secretary of Energy shall*  
 11       *issue such regulations as are necessary to carry out*  
 12       *the amendment made by subsection (a).*

13           *(2) ADMINISTRATIVE PROCEDURE.*—*Regulations*  
 14       *issued to carry out the amendment made by sub-*  
 15       *section (a) shall not be subject to—*

16                   *(A) section 523 of the Energy Policy and*  
 17                   *Conservation Act (42 U.S.C. 6393); or*

18                   *(B) section 501 of the Department of En-*  
 19                   *ergy Organization Act (42 U.S.C. 7191).*

20       *(c) EFFECTIVE DATE.*—*The amendment made by sub-*  
 21       *section (a) takes effect on the earlier of—*

22                   *(1) the date that is 180 days after the date of en-*  
 23                   *actment of this Act; or*

24                   *(2) the date that final regulations are issued*  
 25                   *under subsection (a).*



1 **SEC. 10. INDIAN ENERGY RESOURCE DEVELOPMENT.**

2        *Section 2603 of the Energy Policy Act of 1992 (25*  
 3 *U.S.C. 3503) is amended in subsection (c) by striking “and*  
 4 *1997” each place it appears and inserting “1999, 2000,*  
 5 *2001, 2002 and 2003” in lieu thereof.*

6 **SEC. 11. REMEDIAL ACTION.**

7        *(a) Section 1001(b)(2)(C) of the Energy Policy Act of*  
 8 *1992 (42 U.S.C. 2296a) is amended by striking*  
 9 *“\$65,000,000” and inserting “\$140,000,000”.*

10       *(b) Section 1003(a) of such Act (42 U.S.C. 2296a–2)*  
 11 *is amended by striking “\$415,000,000” and inserting*  
 12 *“\$490,000,000”.*

13       *(c) Section 1802(a) of the Atomic Energy Act of 1954*  
 14 *(42 U.S.C. 2297g–1) is amended by striking*  
 15 *“\$480,000,000” and inserting “\$488,333,333”.*

Attest:

*Secretary.*

105TH CONGRESS  
2D SESSION

**S. 417**

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**SENATE AMENDMENT TO  
HOUSE AMENDMENTS**